

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Rico Isaih Hairston,

Case No. 3:19-cv-1042

Plaintiff,

v.

ORDER

Pettway, et al.,

Defendants.

On September 22, 2020, I granted the motion of Defendants Pettway and Bias to vacate the order granting *pro se* Plaintiff Rico Isaih Hairston permission to proceed with this case without prepaying the filing fee. (Doc. No. 18). I ordered Hairston to pay the full filing fee within 30 days of the date of the entry of my Memorandum Opinion and Order and warned him this case would be dismissed without prejudice for want of prosecution if he did not. (*Id.*). Hairston did not pay the filing fee within that deadline and I subsequently entered an order dismissing the case. (Doc. No. 21).

On April 27, 2021, approximately six months after the expiration of the deadline I set, Hairston filed a motion for leave to reopen the case. (Doc. No. 22). He asserts he has paid the filing fee in full and wishes to proceed with his claims. (Doc. No. 23). Defendants filed a brief in opposition to Hairston's motion to reopen, arguing the motion should be construed as one under Federal Rule of Civil Procedure 60(b) and that Hairston has not carried his burden under that rule. (Doc. No. 24). Hairston filed a brief in reply, in which he again asserts he paid the filing fee and also requests that the case be set for mediation. (Doc. No. 25).

The Clerk of Court's Office has no record of Hairston paying the full filing fee, nor did Hairston ever seek an extension of the deadline I set in September 2020. Further, Hairston says only that he did not pay the fee within the required time period because he is poor "and therefore due to excusable neglect." (Doc. No. 25 at 1). Even if I accept Hairston's explanation, he still has not paid the filing fee as stated in my September 22, 2020 order. Nor has he offered good cause to explain his failure to respond to or comply with my order within the deadline I set. Therefore, I deny Hairston's motion for leave to reopen this case, (Doc. No. 22), and his motion for mediation.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge